



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,204	09/28/2000	Ted Chongpi Lee		8791

26291 7590 07/23/2004

MOSER, PATTERSON & SHERIDAN L.L.P.  
595 SHREWSBURY AVE, STE 100  
FIRST FLOOR  
SHREWSBURY, NJ 07702

EXAMINER

OSMAN, RAMY M

ART UNIT	PAPER NUMBER
----------	--------------

2157

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/672,204

Applicant(s)

LEE ET AL.

Examiner

Ramy M Osman

Art Unit

2157

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See attached Detailed Action

**BEST AVAILABLE COPY**

## DETAILED ACTION

### *Status of Claims*

1. This communication is responsive to the amendment filed on May 27, 2004. The claims were unamended. Claims 1-23 are pending.

### *Response to Arguments*

2. Following a telephonic interview and applicant's arguments filed on 5/27/2004, the arguments have been fully considered but they are not persuasive.
3. Applicant argues that the Morley reference fails to teach, suggest or disclose the elements of the claimed invention, specifically regarding claim 1 where applicant states: "each of said facilities having associated with it a respective bandwidth utilization level".

Anticipating claim 1, Morley discloses SONET ring networks and recites:

*"A BLSR consists of a group of nodes interconnected by transmission systems to form a closed loop or ring ... Route all of the demand between a pair of nodes in either one or the other direction around the ring ... A ring with n nodes and n spans ... Associated with R(ring) is a set of demands available for loading into the ring ... Transport signals may be routed in either direction around the ring provided that the load on any span does not exceed its line capacity c ... Each demand is routed in either clockwise or counter-clockwise direction ..." (excerpts from pages 1-3)*

Therefore, Morley teaches routing demand (aka Bandwidth) between a pair of nodes on a SONET ring with a plurality of nodes, on a plurality of spans, with each span

**BEST AVAILABLE COPY**

Art Unit: 2157

in the ring having associated with it respective demand loaded into it, and when a demand carried on a span in the ring is large relative to the spans line capacity, then that span will not be used to define a transport circuit path.

It is also obvious that each span will have its own respective utilization level because not all spans are identical. Some spans may have high levels of bandwidth utilization while some may have low bandwidth utilizations, all depending on traffic conditions.

In the telephonic interview and in applicants arguments, applicant clarifies that the bandwidth utilization level is a "user defined threshold level (bandwidth utilization threshold)". This means that it is a user or an administrator who determines this bandwidth utilization level associated with each of the facilities. This is a divergence from the text of the claims which make no mention of the bandwidth utilization level being defined by a user or administrator.

The text of claim 1 states: "each of said links having associated with it a plurality of facilities, each of said facilities having associated with it a respective bandwidth utilization level". The claim term 'associated with it' in this context has a synonymous meaning to 'included with it'. Therefore each facility has 'included with it' bandwidth utilization level. There is no mention of a user defined bandwidth utilization level and so the claim is anticipated by Morley, and the remainder of the claims are thus rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M Osman whose telephone number is (703) 305-8050. The examiner can normally be reached on M-F 9-5.


**BEST AVAILABLE COPY**

Art Unit: 2157

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703) 308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMO  
July 12, 2004



SALEH NAJJAR  
PRIMARY EXAMINER

BEST AVAILABLE COPY